

### **REMARKS**

Claims 1, 3-19 and 21-24 are currently pending. Claim 1 has been amended. The support for this amendment is found in the specification on page 7, lines 26-29.

The examiner maintained the rejection of applicants' claims 1 and 3-19 under 35 USC 102(b) as being anticipated by Kolter et al. (DE 197 09 663). The examiner stated in the advisory action dated October 30, 2003, that claim 1 of Kolter et al. shows elements a) polyvinyl acetate and b) N-vinylpyrrolidone may constitute the entire binder in a ratio of 6:4 to 9:1 and the upper limit of 20 % binder reads on applicants' claim 1.

Applicants' current amendment of claim 1 results in no overlap of the ranges. Anticipation can only be established by a single prior art reference which discloses each and every element of the claimed invention. *RCA Corp., v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Therefore, Kolter et al. do not teach each and every element of the amended claims.

Claims 1, 4-5, 8-12, 15-19, 21-22 and 24 remain rejected under . The examiner stated in the advisory action dated October 30, 2003 that while applicants feel Ortega does not show the same formulated mixture of polyvinylpyrrolidone and polyvinyl acetate as applicants, how a composition is made is not a basis for determining patentability of composition claims.

Applicants believe the present composition is different because the formulated mixture of polyvinyl acetate and polyvinylpyrrolidone combines great mechanical stability with, at the same time, good slowing of release. The unexpected results shown

by the present examples indicate that the present solid dosage form are different and unobvious compared to Ortega et al.

For the reasons expressed above, it is urged that the prior art references cited by the examiner either singly or in combination fail to anticipate or suggest the present invention as defined by the amended claims. Accordingly, a *prima facie* case of obviousness has not been established by the examiner, and the rejection under 35 USC § 103 should be withdrawn.

**A check is attached to cover the \$110.00 required fee for a one month extension of time.**

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such account.

Respectfully submitted,

KEIL & WEINKAUF

A handwritten signature in black ink, appearing to read "Dan Kim", with a stylized, cursive script.

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